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APPENDIX VII.

[Vide item III (5) on page 265 supra.]

A Bill to prohibit transfers of certain lands and buildings by managers of educational and other institutions in the Province of Madras.

L.A. BILL No. 7 OF 1948.

(As passed by the Assembly.)

WHEREAS it is expedient to prohibit transfers by managers of educational and other institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Government" means the Provincial Government;

(2) "institution" means—

(*a*) any college, school or other place in the Province of Madras which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants;

(*b*) any hospital, dispensary or nursing home in the Province and includes quarters for the residence of doctors, nurses and servants;

(*c*) any other institution or class of institution in the Province notified by the Government in the *Fort St. George Gazette*;

(3) "manager" means the owner, trustee or other person who has power to transfer any land or building belonging to an institution, **and includes a local authority;**

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Government.

3. (1) Where before or after the commencement of this Act—

(*a*) any land or building has been acquired, constructed, improved, or altered . . . for the purposes of any institution, with the aid of any grant made from the revenues of the Government, or

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(*b*) any land or building has been transferred by the Government for use for the purposes thereof,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2); nor shall the land or building be used except for the purposes of the institution or purposes similar thereto or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, by order, permit the transfer of any such land or building if—

(i) the transfer is made in furtherance of the purposes of the institution or of similar purposes approved by the Government, and the assets resulting from the transfer are to be wholly utilized in furtherance of the said purposes;

(ii) the transfer is made only in part in furtherance of the purposes aforesaid, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be;

(iii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be.

Explanation.—When granting permission under clause (i) or (ii) for the transfer of any land or building, the Government may impose such conditions as they deem fit to ensure that the assets resulting from the transfer are utilized wholly or in part, as the case may be, in furtherance of the purposes referred to in those clauses; but a contravention of any such condition imposed on the transferor shall not invalidate the transfer.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order— Consequences of breech of provisions of section 3.

(*a*) if the land, or the land on which the building stands, belonged to the Government and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them

in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by Government for improving altering . . . or constructing the land or building ;

(*b*) if the land, or the land in which the building stands, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, in which case, the Government shall pay to the manager any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Effect of orders under sections 3 (2) and 4.

5. (1) Every order passed by the Government **under section 3 (2) or 4 shall, subject to the provisions of sub-sections (2) and (3),** be final and shall not be liable to be questioned in any Court of law.

(2) (a) The manager of the institution in respect of which such an order is passed, not being a local authority, may, on the ground that the amount repayable or payable by or to him has been wrongly fixed in the order, apply to the District Judge having jurisdiction over the area in which the property in question is situated of if the property is situated in the presidency-town, to the Principal Judge of the Madras City Civil Court, for fixing such amount correctly in accordance with the provisions of section 3 (2) or 4, as the case may be.

(b) Such application shall be made within sixty days from the date on which the order is communicated to the manager.

(3) The District or City Civil Court Judge shall determine the amount which is properly repayable or payable by or to the manager in accordance with the provisions of section 3 (2) or 4, as the case may be, and such determination shall be final and shall not be liable to be questioned in any Court of Law.

Land or building to vest in Crown absolutely on possession being taken.

6. (1) When, in pursuance of an order under section 4, the Collector takes possession of any land or building by himself or through another, it shall vest absolutely in the Crown free from all encumbrances other than those existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector or any person authorized by him in this behalf is opposed or impeded in taking possession of any land or building under this Act, he shall if he is a Magistrate, enforce the surrender of such land or building to himself; and, he is not a Magistrate, he shall apply to a Magistrate, or within the presidency-town, . . . to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

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(3) Whoever opposes or impedes the Collector or any person authorized by him in taking possession of any land or building under this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

(4) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for purposes similar to those for which it was being used before such vesting.

7. Any sum required to be repaid or paid to the Government in pursuance of section 3, 4 or 5 may, without prejudice to any mode of recovery provided in any other law for the time being in force, be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager. Recovery of sums due under Act.

8. (1) The Government may, by notification in the *Fort St. George Gazette*, make rules not inconsistent with this Act for carrying into effect the purposes thereof. Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the court-fees payable on the applications referred to in section 5, sub-section (2) ;

(*b*) the procedure to be followed in respect of such applications ;]

(*c*) the payment of the costs incurred by the parties, in connexion with such applications.

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